

BDAC ASSURANCES WORK GROUP
Meeting Summary
November 12, 1998

The BDAC Assurances Work Group held its eighteenth meeting on November 12, 1998, from Noon until 3:00 PM in Room 1412 of the Resources Building.

BDAC Members present:

Hap Dunning

CALFED Staff/Consultants:

Dennis O'Bryant
Eugenia Laychak
Mike Heaton

Others present:

{Beth - please get names fm sign-in sheet}

1. Chairman Hap Dunning convened the meeting and participants introduced themselves. The meeting summaries of September 3 and October 6 were reviewed. The September 3 summary was corrected to reflect the attendance of Dennis O'Connor, and to record his comment that the Work Group should begin consideration of program oversight issues.

2. There were no reports from Ag-Urban or EWC.

3. Dennis O'Bryant reported on the CALFED Policy Group meeting discussion on program oversight and governance issues. He said that the Policy Group generally recognizes that there will need to be some type of oversight entity, but there is no agreement that this means a new entity, i.e., something legally different than the existing CALFED structure. The Policy Group suggested that the Work Group attempt to prioritize the oversight functions and explore the possibility of incremental changes in the existing oversight structure. Other comments from the Policy Group included the view that the administrative and project coordination problems should be addressed first.

Dennis reported that there was some resistance to the view that a key function of the CALFED oversight entity is the ability to receive and manage a single program appropriation. Some agency managers prefer the concept of a "cross cut" budget. The Policy Group also directed that the Work Group should not recommend a proposal that, even if "technically superior" is not practical and realistic. Finally, CALFED staff was directed by the Policy Group to meet with agency representatives "one to one" to talk about oversight and governance issues and options.

Program oversight was also briefly discussed at the Babbitt-Dunn Group meeting. That group was advised that there is some interest in the Legislature in the oversight issue, and that one or more bills may be introduced in the next session dealing with CALFED Program management.

There was also a discussion at the Babbitt-Dunn meeting about holding a "public symposium" on the question of Program oversight and governance. A small group was charged to explore this possibility and come back with a recommendation in December.

4. Eugenia Laychak outlined the staff's recommended process for the Work Group to use in considering these issues. First, develop a set of functions or duties that the program oversight entity needs to be able to perform; second, identify the problems with using the existing CALFED structure as the oversight entity; third, consider the alternatives for an oversight entity, including modifications to the existing structure to resolve identified problems, as well as a new legal entity; finally, develop a recommendation on program oversight to submit to BDAC.

5. The Work Group then discussed the functions described on pages 5 and 6 of the staff discussion paper and on pages 3 and 4 of the BDAC meeting summary. (Both documents were included in the meeting packet.) The comments are summarized below:

- There should be a mechanism to assure the implementation of various program elements and actions will be coordinated across resources areas. For example, levee actions should be coordinated with ecosystem actions; ecosystem actions should be coordinated with water quality actions; etc. There should be a program overseer or manager who look at the program very broadly, to ensure the actions in one area do not create problems somewhere else and to ensure that the program does not generate significant redirected impacts.
- The program manager/oversight entity should be able to determine the cost-effectiveness of actions and do "least cost" budgeting and planning.
- Oversight includes the ability and the authority to make the "staged" decisions regarding program implementation; to make the necessary findings to move from one stage to the next; or to determine if conditions to move to the next stage have been satisfied.

- Policy level decisions are distinct from program management level decisions. There should be a demarcation between broad program policy oversight and specific program management actions.
- The CALFED program should be the principal mission of the oversight entity. Oversight responsibility should not be diluted by, or subordinated to, other mission or program responsibility.
- Oversight should include the ability to act as lead agency for environmental compliance and to address Native American concerns.
- Oversight includes the ability and the obligation to report to the public, the legislature, Congress and the executive branches. It also includes the ability to undergo independent outside audits or review to determine if the program objectives and performance measures are being accomplished.
- With respect to the list of functions identified on the BDAC meeting summary, it was generally agreed that these are covered by the discussion paper, with the exception of administration of water transfers. It was the general view among the Work Group meeting participants that the CALFED oversight entity does not have a role to play in the administration of specific water transfers.
- The program oversight entity should be able to perform or obtain credible scientific and technical analysis of program performance and to have this analysis validated by independent outside reviewers.
- Oversight and governance should include the ability to carry out programs or projects directly, as well as assigning or contracting them out to other entities.

There was some discussion of the Policy Group's suggestion to look at prioritization of functions and the possibility of an incremental approach to assignment of functions to an oversight entity.

6. The meeting participants then discussed the problems described on pages 2 and 3 of the staff paper. The basic question is whether the existing, informal CALFED structure is the most efficient way of providing program oversight. Some meeting participants expressed concern that the existing CALFED structure does not include all affected agencies, and that there should be a more formalized membership and/or voting structure.

Other comments were that the decision making process of CALFED is not clearly disclosed to, or understood by, the public and that stakeholders often do not know how and/or whether their input is being incorporated into CALFED decisions. For some stakeholders, the

concern with CALFED is fundamentally a lack of political trust in the agencies.

Other comments related to the existing CALFED structure:

- There is a lack of accountability for expenditures; it is difficult to tell how much money is being spent and on what activities money is spent.
- There is a tendency to avoid or defer making "hard decisions" and the opportunities for conflict among the agencies over specific projects will only increase.
- CALFED has not direct budget authority; it cannot submit a budget to either the legislature or Congress and have it funded directly.
- There is a lack of a clear conflict resolution process.
- There is no clearly defined process for the review or analysis of technical issues, data or questions.

Some participants questioned whether there is really a problem of planning vs. implementation as indicated in the staff paper. It was argued that much of what CALFED will do in the future will be planning and there is implementation of some projects underway now, so this may not be a valid distinction. Others think that the shift in emphasis from planning to implementation will be significant and that CALFED as currently structured will have difficulty making implementation decisions and providing project oversight.

There was a view expressed by several meeting participants that, in spite of the problems with the existing structure, it does not necessarily follow that a new legal entity is needed. Instead, the approach should be to improve the effectiveness and the efficiency of the existing CALFED structure.

Other meeting participants expressed the view that CALFED as currently configured will not be able to provide the assurances that stakeholders want regarding program implementation.

There was a suggestion that CALFED staff should review Senator Johannsen's report as well as the final report from the 1996 California Assembly process for additional information relevant to the program oversight and management questions.

7. The next Assurances Work Group meeting was scheduled for January 12, 1999. The meeting was adjourned at 3:00 PM.